

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

Coram: DR. POONDLA BHASKARA MOHAN,
HON'BLE JUDICIAL MEMBER

SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

IA No. 69/JPR/2019
in
IB-570 (PB)/2017
TA No. 45/2018

**UNDER SECTION 33 and 34 OF THE INSOLVENCY AND
BANKRUPTCY CODE, 2016**

In the matter of:

Satyendra Prasad Khorania
Resolution Professional of
Seatel Electronics (India) Private Limited
Registered office: 402, 4th Floor,
OK Plus D.P. Metro Opp. Pillar No. 94,
New Sanganer Road, Jaipur-302019

...Applicant

And in the matter of:

M/s. Seatel Electronics (India) Private Limited

For the Applicant: Amol Vyas, Adv.

For the Respondent(s): Rajendra K. Salecha, Adv.
Tanisha Khudchandani, Adv.

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Order Pronounced On: 23.09.2019

ORDER

1. The instant Application IA/69/JPR/2019, is filed by the Resolution Professional under Section 33 and 34 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') for initiation of Liquidation Proceedings against M/s. Seatel Electronics (India) Private Limited, (for brevity 'Corporate Debtor').
2. Earlier, an Application under Section 10 of the IBC, 2016 was filed by the Corporate Debtor. This Tribunal admitted the insolvency petition on 13.06.2018 and appointed one Mr. Brij Kishore Sharma as Interim Resolution Professional ('IRP').
3. The first meeting of the Committee of Creditors (for brevity 'CoC') was held on 12.07.2018, wherein the CoC resolved to replace the IRP i.e. Brij Kishore Sharma. Consequently, Mr. Satyendra Prasad Khorania was appointed as Resolution Professional ('RP').
4. In compliance of Section 15 of the IBC, 2016, the Resolution Professional issued Information Memorandum and invited resolution plan on 11.10.2018. In the third meeting of the CoC, held on 10.12.2018, it was decided that the CIRP period is expiring on 10.12.2018. Therefore,

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CoC authorised the RP to file an Application with the Hon'ble NCLT for extension of CIRP period under Section 12 of the Insolvency and Bankruptcy Code, 2016 read with regulation 40 of CIRP Regulations, 2016.

5. On an Application filed by the RP, this Tribunal vide its order dated 20.12.2018, extended CIRP period by 90 days. Therefore, the new date for ending of CIRP period was fixed at 10.03.2019. As no resolution plan was received and no other asset was unearthed by the Forensic Auditors, the CoC in its fourth meeting, held on 12.02.2019, voted for liquidation of the Corporate Debtor. The operative part of the Resolution is reproduced as below: -

“Resolved that pursuant to the provisions of Section 33(2) of the Insolvency and Bankruptcy Code, 2016 consent of the member of the committee of creditor of the corporate debtor be and are hereby accorded to liquidate the corporate debtor and authorize Mr. Satyendra Prasad Khorania, resolution professional for the filing the application for the liquidation of the corporate debtor before the adjudicating authority”

6. It is further seen that the RP had also filed Application vide IA No. 20/JPR/2019 against one Mr. Pankaj Sharma and others and prayed to

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declare certain transactions as preferential transactions under Section 43 of the IBC, 2016.

7. IA No. 21/JPR/2019, was also filed by the RP under Section 45 of the IBC, 2016 wherein it was prayed to declare certain transactions as undervalued.

8. Taking into consideration the above facts in relation to the affairs of the Corporate Debtor the provisions of Section 33(2) of IBC, 2016 are as follows: -

“(2) where the resolution professional at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the adjudicating authority of the decision of the committee of creditor approved by not less than sixty-six percent of the voting share to liquidate the corporate debtor, the adjudicating Authority shall pass a liquidation order as referred to in sub-clause (1), (ii) and (iii) of clause (b) of Sub-Section (1)”

9. This Tribunal in the circumstances of the case, taking into consideration the provisions of law as well as on facts, is constrained to order for liquidation of the Corporate Debtor and amidst such background the

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Corporate Debtor stands liquidated with the incidence of liquidation to follow, on and from the date of this order in terms of the provisions of the IBC, 2016 and more particularly as given in Chapter – III of IBC, 2016 and also in terms of Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 along with the following directions:

- a. **Mr. Satyendra Prasad Khorania**, Resolution Professional holding Registration No. IBBI/IPA-002/IP-N00002/2016-17/10002, is hereby appointed as Liquidator, for which he has given written consent.
- b. **Mr. Satyendra Prasad Khorania** is directed to issue Public Announcement stating that the Corporate Debtor is in liquidation, in terms of Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- c. The Registry is directed to communicate this Order to the Registrar of Companies, Jaipur and to the Insolvency and Bankruptcy Board of India;
- d. In terms of section 178 of the Income Tax Act, 1961, the Liquidator shall give necessary intimation to the Income Tax

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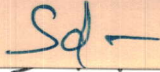
Department. Similarly, in relation to other fiscal and regulatory authorities which govern the Corporate Debtor, the Liquidator shall also duly intimate about the order of liquidation

- e. The Order of Moratorium passed under Section 14 of the IBC, 2016 shall cease to have its effect and a fresh Moratorium under Section 33(5) of the IBC, 2016 shall commence;
- f. This order is deemed to be a notice of discharge to the officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the IBC, 2016;
- g. The Liquidator is directed to proceed with the process of liquidation in a manner laid down in Chapter III of Part II of the IBC, 2016 and in accordance with the relevant regulations.
- h. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy-five days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016.
- i. Copy of this order be sent to the Corporate Debtor and the Liquidator for taking necessary steps.

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- j. The pending IAs, viz., IA No. 20/JPR/2019 and IA No. 21/JPR/2019, as they have bearing on the issues in liquidation, are directed to be listed along with the IB No. 570(PB)/2017, TA No. 45/2018 while the liquidation proceedings are placed before this Tribunal by the Liquidator.



**SH. RAGHU NAYYAR,
MEMBER (TECHNICAL)**



**DR. POONDLA BHASKARA MOHAN
MEMBER (JUDICIAL)**

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